

MT LEGISLATIVE HISTORY

Chapter 526 1975

Bill H (S) 112

Original bill & hist. ✓ C

H. Committee on Judiciary

S. Committee on Judiciary

Hearing Date(s) Mar 15 ✓ C

Hearing Date(s) Feb 24 ✓ C

Mar 21 ✓ C

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Date Out _____ C

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Feb 24 ✓ C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

1 Sen. J. J. Ferguson BILL NO. 112
 2 INTRODUCED BY Sen. J. J. Ferguson
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION
 5 53-438, R.C.M. 1947, TO INCREASE THE MINIMUM PROOF OF
 6 FINANCIAL RESPONSIBILITY FROM TEN THOUSAND DOLLARS TO
 7 TWENTY-FIVE THOUSAND DOLLARS BECAUSE OF BODILY INJURY TO OR
 8 DEATH OF ONE PERSON IN ANY ONE ACCIDENT, AND TO INCREASE
 9 FROM TWENTY THOUSAND DOLLARS TO FIFTY THOUSAND DOLLARS THE
 10 AMOUNT REQUIRED FOR BODILY INJURY TO OR DEATH OF TWO (2) OR
 11 MORE PERSONS IN ANY ONE ACCIDENT."
 12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 14 Section 1. Section 53-438, R.C.M. 1947, is amended to
 15 read as follows:
 16 "53-438. Motor vehicle liability policy defined. (a) A
 17 "motor vehicle liability policy" as said term is used in
 18 this act shall mean an owner's or operator's policy of
 19 liability insurance, certified as provided in section 53-436
 20 or section 53-437 as proof of financial responsibility and
 21 issued, except as otherwise provided in section 53-437, by
 22 an insurance carrier duly authorized to transact business in
 23 this state, to or for the benefit of the person named
 24 therein as insured.
 25 (b) Such owner's policy of liability insurance:

1 1. shall designate by explicit description or by
 2 appropriate reference all motor vehicles with respect to
 3 which coverage is thereby to be granted; and
 4 2. shall insure the person named therein and any other
 5 person, as insured, using any such motor vehicle or motor
 6 vehicles with the express or implied permission of such
 7 named insured, against loss from the liability imposed by
 8 law for damages arising out of the ownership, maintenance or
 9 use of such motor vehicle or motor vehicles within the
 10 United States of America or the Dominion of Canada, subject
 11 to limits exclusive of interest and costs, with respect to
 12 each such motor vehicle, as follows: ~~ten--thousand--dollars~~
 13 ~~(\$10,000)~~ twenty-five thousand dollars (\$25,000) because of
 14 bodily injury to or death of one person in any one accident
 15 and subject to said limit for one person, ~~twenty--thousand~~
 16 ~~dollars--(\$20,000)~~ fifty thousand dollars (\$50,000) because
 17 of bodily injury to or death of two or more persons in any
 18 one accident, and five thousand dollars (\$5,000) because of
 19 injury to or destruction of property of others in any one
 20 accident.
 21 (c) Such operator's policy of liability insurance shall
 22 insure the person named as insured therein against loss from
 23 the liability imposed upon him by law for damages arising
 24 out of the use by him of any motor vehicle not owned by him,
 25 within the same territorial limits and subject to the same

limits of liability as are set forth above with respect to an owner's policy of liability insurance.

(d) Such motor vehicle liability policy shall state the name and address of the named insured, the coverage afforded by the policy, the premium charged therefor, the policy period and the limits of liability, and shall contain an agreement or be endorsed that insurance is provided thereunder in accordance with the coverage defined in this act as respects bodily injury and death or property damage, or both, and is subject to all the provisions of this act.

(e) Such motor vehicle liability policy need not insure any liability under any workmen's compensation law nor any liability on account of bodily injury to or death of an employee of the insured while engaged in the employment, other than domestic, of the insured, or while engaged in the operation, maintenance or repair of any such motor vehicle nor any liability for damage to property owned by, rented to, in charge of or transported by the insured.

(f) Every motor vehicle liability policy shall be subject to the following provisions which need not be contained therein:

1. the liability of the insurance carrier with respect to the insurance required by this act shall become absolute whenever injury or damage covered by said motor vehicle liability policy occurs; said policy may not be canceled or

annulled as to such liability by any agreement between the insurance carrier and the insured after the occurrence of the injury or damage; no statement made by the insured or on his behalf and no violation of said policy shall defeat or void said policy;

2. the satisfaction by the insured of a judgment for such injury or damage shall not be a condition precedent to the right or duty of the insurance carrier to make payment on account of such injury or damage;

3. the insurance carrier shall have the right to settle any claim covered by the policy, and if such settlement is made in good faith, the amount thereof shall be deductible from the limits of liability specified in subdivision 2 of subsection (b) of this section;

4. the policy, the written application therefor, if any, and any rider or endorsement which does not conflict with the provisions of the act shall constitute the entire contract between the parties.

(g) No motor vehicle policy shall be subject to cancellation, termination, or premium increase, due to injury or damage incurred by the insured or operator unless the insured or operator be found to have violated a traffic law or ordinance of the state or a city, be found negligent or contributorily negligent in a court of law, or by the arbitration proceedings contained in chapter 201 of Title

93, R.C.M. 1947, or pays damages to another party whether by settlement or otherwise. In no event may a premium be increased during the term of the policy unless there is a change in exposure.

(h) Any policy which grants the coverage required for a motor vehicle liability policy may also grant any lawful coverage in excess of or in addition to the coverage specified for a motor vehicle liability policy and such excess or additional coverage shall not be subject to the provisions of this act. With respect to a policy which grants such excess or additional coverage the term "motor vehicle liability policy" shall apply only to that part of the coverage which is required by this section.

(i) Any motor vehicle liability policy may provide that the insured shall reimburse the insurance carrier for any payment the insurance carrier would not have been obligated to make under the terms of the policy except for the provisions of this act.

(j) Any motor vehicle liability policy may provide for the prorating of the insurance thereunder with other valid and collectible insurance.

(k) The requirements for a motor vehicle liability policy may be fulfilled by the policies of one or more insurance carriers which policies together meet such requirements.

(l) Any binder issued pending the issuance of a motor vehicle liability policy shall be deemed to fulfill the requirements for such a policy.

(m) A reduced limits endorsement shall not be issued by any company to be attached to any policy issued in compliance with this section."

-End-

SB112

MINUTES OF THE MEETING
JUDICIARY COMMITTEE
February 24, 1975

The meeting was called to order by Senator Towe, Chairman at 9:30 a.m. in Room 442 of the Capitol Building.

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The following bills were heard:

SB 154
SB 112

Senator Towe relinquished the chair to Senator Roberts in order to present SB 154 of which he was the sponsor. Senator Towe stated that SB 154 would change the system of retirement for the judges from the present system of a percent of salary at the date of retirement to a percent of the current salary earned by active judges. This, he stated, would provide cost-of-living increase for all retired judges in the state.

Justice Daly, Associate Justice of the Montana Supreme Court, supported the bill and stated that Judge Wilson of the 3th judicial district, Judge Sorte of the 15th judicial district and Judge Bennett of the 1st judicial district had communicated to him their support to the bill (letters attached). He explained that under the current law many judges are already eligible for or are receiving retirement benefits based on a percent of current salary: only a few judges who were appointed prior to a change in the retirement law created some years back are not eligible for or not currently receiving pay based on a percent of current salary.

Larry Nachstheim of PERS stated that an actuarial study of SB 154 showed that the proposal would eventually necessitate deductions of 5% from judges' salaries. He stated that court filing fees rather than deductions from salaries are the primary source of funds for the judges' retirement system. There were no opponents to the bill.

Senator Towe resumed the chair to hear SB 112, sponsored by Senator Devine, District #19. Senator Devine stated that the purpose of SB 112 was to raise the minimum proof of financial responsibility of a motor vehicle liability policy as defined in 53-438 RCM 1947, from \$12,000 to \$20,000 in the event of bodily injury or death to one person and from \$25,000 to 50,000 in the event of bodily injury or death to two or more persons. There were no further proponents to the bill and no opponents to the bill.

SB 112 SENATOR GREELY MOVED SB 112 DO PASS. THE MOTION CARRIED
UNANIMOUSLY ON A ROLL CALL VOTE.

SB 154 SENATOR TURNAGE MOVED SB 154 DO PASS. THE MOTION CARRIED
UNANIMOUSLY ON A ROLL CALL VOTE.

SB 274 Senator TOWE MOVED TO AMEND SB 274 ON PAGE 3, SECTION 4, LINES 7,
9 and 10, AND TO AMEND PAGE 4, SECTION 4, LINE 13. THE MOTION
CARRIED UNANIMOUSLY ON A ROLL CALL VOTE. (amendments attached)

ROLL CALL

Judiciary COMMITTEE

~~SECOND~~ ~~HALE~~ - 44th LEGISLATIVE SESSION 1975

Date 3/24/75

NAME	PRESENT	ABSENT	EXCUSED
Thomas E. Towe	X		
Joe R. Roberts	X		
V. E. Cetrone	X late		
Margaret S. Warden	X		
Robert J. Brown	X		
Glen L. Drake	X		
Jean A. Turnage	X		
Michael Greely	X		

SENATE COMMITTEE JUDICIARY

Date FEB 24, 1975 SENATE Bill No. 112 Time

NAME	YES	NO
THOMAS E. TOWE	✓	
JOE R. ROBERTS	✓	
V.E. CETRONE	✓	
MARGARET S. WARDEN	✓	
ROBERT J. BROWN	✓	
GLEN L. DRAKE	✓	
JEAN A. TURNAGE	✓	
MICHAEL GREELY	✓	

Jill Rabyane
Secretary

Thomas E. Towe
Chairman

Motion: by Senator Greely that SB 112 DO
PASS.

(include enough information on motion--put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

February 24 19 75

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration SENATE Bill No. 112

Respectfully report as follows: That SENATE Bill No. 112

DO PASS

JUDICIARY COMMITTEE

March 15, 1975

The sixty-seventh meeting of the Senate Judiciary Committee was called to order in Room 436 of the Capitol Building, Kansas, on Saturday, March 15, 1975 at 9:05 AM. Representative Scott Sorenson, Chairman, presided. All members were present except Representatives Moore, Kimble, Maloy, Scully and Vincent, absent.

Bills scheduled for hearing this date were Senate Bills No. 112, 377, 388 and 321, and were heard in this order.

SENATE BILL NO. 112 Senator John W. Devine, District #19, is chief sponsor of the bill. Representative Dennis Lester, taking the place and testifying for Senator Devine, stated this is a bill raising the requirement of financial responsibility. It is similar to his bill except that it raises the limits even higher.

SENATE BILL NO. 377 & 388 Senator Thomas Towe, District #34, chief sponsor, requested that these bills be heard simultaneously. Chairman Sorenson imposed a time limit of forty minutes to each side and if there is unused time will allow additional testimony.

Senator Towe stated these are the commitment procedures bills. SB 388 relates to the mentally retarded commitment to Boulder, SB 377 relates to commitment procedures at Warm Springs. Each bill: 1) reforms process for commitment, updates and revises rights of those committed; 2) guarantees the right of treatment and rights of individual; 3) Sets up a board of visitors who will have an opportunity to review to be sure everyone is being treated fairly.

In the definition on page 4 of SB 377 the most important sentence is "no person may be admitted because he is" (and those are listed under 1, 2 and 3.) Mere senility is not cause to have someone committed to Warm Springs. The state has an obligation to these people.

The definition on page 3 of SB 388 of a person mentally retarded which is "developmentally disabled" in other words means he cannot get along in some other facility. The definitions are changed, are more restrictive and will be more beneficial.

NAME DENNIS A. LESTER Bill No. SB 112
ADDRESS 1539 11th Ave Date 3/15/75
WHOM DO YOU REPRESENT? Myself
SUPPORT ☒ X ☐ OPPOSE ☐ AMEND ☐

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

I am appearing for Senator Devine, the chief sponsor,
who could not be with us.

SENATE BILL NO. 112 Senator Devine is chief sponsor of this act to increase the minimum proof of financial responsibility from ten thousand dollars to twenty-five thousand dollars.

A motion of BE CONCURRED IN by Representative Baeth was seconded by Representative Seifert. Representative Lester stated this bill doesn't tie in with his bill which presently is in the Senate Judiciary and that it can go through without his bill. He stated he supports the motion.

Motion BE CONCURRED IN carried unanimously.

SENATE BILL NO. 78 Senator Greely is chief sponsor of this measure regulating financial support of candidates. Following brief discussion, the decision was made to defer action on this bill until more input can be obtained.

SENATE BILL NO. 123 Senator Roberts is chief sponsor of this act to provide definitions of sexual crimes by adding a definition of the term "without consent". Representative Lory moved BE CONCURRED IN. Motion carried unanimously with Representatives Meloy, Kimble, Yardley, Anderson, Hager and Day absent.

SENATE BILL NO. 93 Senator Turnage is chief sponsor of the act to revise tax appeals procedures and establishing provisions for so doing. Representative Moore stated he feels this is a fairly innocuous bill and moved to amend in the title, line 7, by striking "the assessment of costs on certain appeals, and interlocutory adjudications". Following brief discussion, a motion to amend carried unanimously.

Motion by Representative Moore of BE CONCURRED IN AS AMENDED carried unanimously with Representatives Meloy, Kimble, Yardley, Anderson, Hager and Day absent.

SENATE BILL NO. 201 Senator Turnage is chief sponsor. Chairman Huennekens stated the sole intent of the bill is to clarify interstate problem with third degree heirs. Frances Elge testified on this.

A motion by Representative Rasmussen of BE CONCURRED IN carried unanimously with Representatives Meloy, Kimble, Yardley, Anderson, Hager and Day absent.

Time ran out and the meeting adjourned at 11:15 a.m.

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Representative Bert Huennekens
Chairman

STANDING COMMITTEE REPORT

HE CONCURRED IN

March 21,

1975

MR. SPEAKER:

We have committee on

JUDICIARY

having had under consideration

SENATE

112

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 22-131, PUBLIC LAWS, 1947, TO INCREASE THE MINIMUM PROOF OF FINANCIAL RESPONSIBILITY FROM TEN THOUSAND DOLLARS TO TWENTY-FIVE THOUSAND DOLLARS BECAUSE OF BODILY INJURY TO OR DEATH OF ONE PERSON IN ANY ONE ACCIDENT, AND TO INCREASE FROM TWENTY THOUSAND DOLLARS TO FIFTY THOUSAND DOLLARS THE AMOUNT REQUIRED FOR BODILY INJURY TO OR DEATH OF TWO (2) OR MORE PERSONS IN ANY ONE ACCIDENT."

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Respectfully report as follows: That

SENATE

H. R. 112

HE CONCURRED IN

XXXXXX

XXXXXX

STATE OF
MISSISSIPPI

DEPT. BUSCHKEKEND, CHAIRMAN

March 17, 1975

SENATE COMMITTEE OF THE WHOLE

AMENDMENTS TO HOUSE BILL NO. 112

That House Bill No. 112, be amended as follows:

Amend Senate Committee on Local Government Amendments, dated March 12, 1975, as follows:

1. Amend amendment No. 5, insertion paragraph, line 5.
Following: "consecutive"
Strike: "weeks"
Insert: "hours"

March 25, 1975

HOUSE OF REPRESENTATIVES

Committee of the Whole Amendment to SENATE BILL NO. 112,
third reading copy, as follows:

1. Amend title, page 1, line 8

Following: "ACCIDENT,"

Strike: "AND"

2. Amend title, page 1, line 11

Following: "ACCIDENT"

Insert: ", AND TO INCREASE PROPERTY DAMAGE LIMIT FROM
FIVE THOUSAND DOLLARS TO TEN THOUSAND DOLLARS"

3. Amend page 2, section 1, subsection 1, line 18

Following: "and"

Strike: "five thousand dollars (\$5,000)"

Insert: "ten thousand dollars (\$10,000)"

As so amended

Be concurred In

SENATE BILL NO. 112

INTRODUCED BY DEVINE, JERGSON

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 53-438, R.C.M. 1947, TO INCREASE THE MINIMUM PROOF OF FINANCIAL RESPONSIBILITY FROM TEN THOUSAND DOLLARS TO TWENTY-FIVE THOUSAND DOLLARS BECAUSE OF BODILY INJURY TO OR DEATH OF ONE PERSON IN ANY ONE ACCIDENT, ~~AND~~ TO INCREASE FROM TWENTY THOUSAND DOLLARS TO FIFTY THOUSAND DOLLARS THE AMOUNT REQUIRED FOR BODILY INJURY TO OR DEATH OF TWO (2) OR MORE PERSONS IN ANY ONE ACCIDENT, AND TO INCREASE PROPERTY DAMAGE LIMIT FROM FIVE THOUSAND DOLLARS TO TEN THOUSAND DOLLARS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 53-438, R.C.M. 1947, is amended to read as follows:

"53-438. Motor vehicle liability policy defined. (a) A "motor vehicle liability policy" as said term is used in this act shall mean an owner's or operator's policy of liability insurance, certified as provided in section 53-436 or section 53-437 as proof of financial responsibility and issued, except as otherwise provided in section 53-437, by an insurance carrier duly authorized to transact business in this state, to or for the benefit of the person named

therein as insured.

(b) Such owner's policy of liability insurance:

1. shall designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is thereby to be granted; and

2. shall insure the person named therein and any other person, as insured, using any such motor vehicle or motor vehicles with the express or implied permission of such named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use of such motor vehicle or motor vehicles within the United States of America or the Dominion of Canada, subject to limits exclusive of interest and costs, with respect to each such motor vehicle, as follows: ~~ten--thousand--dollars~~ ~~(\$10,000)~~ twenty-five thousand dollars (\$25,000) because of bodily injury to or death of one person in any one accident and subject to said limit for one person, ~~twenty--thousand~~ ~~dollars--(\$20,000)~~ fifty thousand dollars (\$50,000) because of bodily injury to or death of two or more persons in any one accident, and ~~five--thousand--dollars--(\$5,000)~~ TEN THOUSAND DOLLARS (\$10,000) because of injury to or destruction of property of others in any one accident.

(c) Such operator's policy of liability insurance shall insure the person named as insured therein against loss from the liability imposed upon him by law for damages arising

1 out of the use by him of any motor vehicle not owned by him,
2 within the same territorial limits and subject to the same
3 limits of liability as are set forth above with respect to
4 an owner's policy of liability insurance.

5 (d) Such motor vehicle liability policy shall state the
6 name and address of the named insured, the coverage afforded
7 by the policy, the premium charged therefor, the policy
8 period and the limits of liability, and shall contain an
9 agreement or be endorsed that insurance is provided
10 thereunder in accordance with the coverage defined in this
11 act as respects bodily injury and death or property damage,
12 or both, and is subject to all the provisions of this act.

13 (e) Such motor vehicle liability policy need not insure
14 any liability under any workmen's compensation law nor any
15 liability on account of bodily injury to or death of an
16 employee of the insured while engaged in the employment,
17 other than domestic, of the insured, or while engaged in the
18 operation, maintenance or repair of any such motor vehicle
19 nor any liability for damage to property owned by, rented
20 to, in charge of or transported by the insured.

21 (f) Every motor vehicle liability policy shall be
22 subject to the following provisions which need not be
23 contained therein:

24 1. the liability of the insurance carrier with respect
25 to the insurance required by this act shall become absolute

1 whenever injury or damage covered by said motor vehicle
2 liability policy occurs; said policy may not be canceled or
3 annulled as to such liability by any agreement between the
4 insurance carrier and the insured after the occurrence of
5 the injury or damage; no statement made by the insured or on
6 his behalf and no violation of said policy shall defeat or
7 void said policy;

8 2. the satisfaction by the insured of a judgment for
9 such injury or damage shall not be a condition precedent to
10 the right or duty of the insurance carrier to make payment
11 on account of such injury or damage;

12 3. the insurance carrier shall have the right to
13 settle any claim covered by the policy, and if such
14 settlement is made in good faith, the amount thereof shall
15 be deductible from the limits of liability specified in
16 subdivision 2 of subsection (b) of this section;

17 4. the policy, the written application therefor, if
18 any, and any rider or endorsement which does not conflict
19 with the provisions of the act shall constitute the entire
20 contract between the parties.

21 (g) No motor vehicle policy shall be subject to
22 cancellation, termination, or premium increase, due to
23 injury or damage incurred by the insured or operator unless
24 the insured or operator be found to have violated a traffic
25 law or ordinance of the state or a city, be found negligent

1 or contributorily negligent in a court of law, or by the
2 arbitration proceedings contained in chapter 201 of Title
3 93, R.C.M. 1947, or pays damages to another party whether by
4 settlement or otherwise. In no event may a premium be
5 increased during the term of the policy unless there is a
6 change in exposure.

7 (h) Any policy which grants the coverage required for a
8 motor vehicle liability policy may also grant any lawful
9 coverage in excess of or in addition to the coverage
10 specified for a motor vehicle liability policy and such
11 excess or additional coverage shall not be subject to the
12 provisions of this act. With respect to a policy which
13 grants such excess or additional coverage the term "motor
14 vehicle liability policy" shall apply only to that part of
15 the coverage which is required by this section.

16 (i) Any motor vehicle liability policy may provide that
17 the insured shall reimburse the insurance carrier for any
18 payment the insurance carrier would not have been obligated
19 to make under the terms of the policy except for the
20 provisions of this act.

21 (j) Any motor vehicle liability policy may provide for
22 the prorating of the insurance thereunder with other valid
23 and collectible insurance.

24 (k) The requirements for a motor vehicle liability
25 policy may be fulfilled by the policies of one or more

1 insurance carriers which policies together meet such
2 requirements.

3 (l) Any binder issued pending the issuance of a motor
4 vehicle liability policy shall be deemed to fulfill the
5 requirements for such a policy.

6 (m) A reduced limits endorsement shall not be issued by
7 any company to be attached to any policy issued in
8 compliance with this section."

-End-

17